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## BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN  
COMMISSIONER-CHAIRMAN  
TONY WEST  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER

APR 01 1999

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IN THE MATTER OF THE APPLICATION OF  
SORENSEN UTILITY COMPANY, INC. FOR AN  
EXTENSION OF ITS EXISTING CERTIFICATE  
OF CONVENIENCE AND NECESSITY.

DOCKET NO. SW-02529A-98-0571

DECISION NO. 61605OPINION AND ORDER

DATE OF HEARING: January 20, 1999

PLACE OF HEARING: Phoenix, Arizona

PRESIDING OFFICER: Teena Wolfe

APPEARANCES: FENNEMORE CRAIG, PC, by Mr. Jay L. Shapiro, for Applicant  
Sorenson Utility Company, Inc.;SALLQUIST & DRUMMOND, PC, by Mr. Richard L. Sallquist, for  
Intervenor Sunrise Vistas Utilities Company;Mr. Christopher C. Kempley, Assistant Chief Counsel, Legal Division,  
for the Arizona Corporation Commission Utilities Division Staff.

## BY THE COMMISSION:

On October 1, 1998, Sorenson Utility Company, Inc. ("Sorenson") filed with the Arizona  
Corporation Commission ("Commission") an application for an extension of its existing Certificate  
of Convenience and Necessity ("Certificate" or "CC&N").

On October 29, 1998, the Fort Mojave Tribal Utilities Authority ("FMTUA") filed an  
application requesting authority to intervene in this matter, and on October 30, 1998, Sunrise Vistas  
Utility Company ("Sunrise") filed an application requesting authority to intervene in this matter.

On October 30, 1998, the Commission's Utilities Division Staff ("Staff") filed its Staff Report  
on Sorenson's application. By Procedural Order of November 4, 1998, the matter was set for hearing  
to commence on December 16, 1998.

On November 12, 1998, Sorenson filed its Response to Intervention of FMTUA.<sup>1</sup> Also on

<sup>1</sup> Sorenson's filing also included a response to comments filed by the Fort Mojave Indian Tribe regarding Mohave  
County's interest in this matter.

1 November 12, 1998, Sorenson filed its Opposition to Sunrise's Motion to Intervene, to which Sun  
2 filed a Response on November 16, 1998.

3 By Procedural Order of November 12, 1998, the intervention requests of FMTUA and Sunrise  
4 were granted.

5 On December 14, 1998, Staff filed a Hearing Memorandum. Sorenson filed its Joinder in  
6 Staff's Hearing Memorandum on January 13, 1999.

7 On December 15, 1998, Sorenson, Sunrise, FMTUA and Staff stipulated to a rescheduling of  
8 the December 16, 1998 hearing due to the unavailability of a material witness for Staff. By  
9 Procedural Order of December 15, 1998, the hearing was rescheduled for January 20, 1999.

10 On January 15, 1999, Sunrise filed a Hearing Memorandum and a Motion for Partial  
11 Dismissal ("Motion").

12 A full public hearing was held as scheduled before a duly authorized Hearing Officer of the  
13 Commission at its offices in Phoenix, Arizona on January 20, 1999. Sorenson, Sunrise, and Staff  
14 appeared with counsel and presented evidence. At the hearing, Sorenson and Staff were inform  
15 that they had an opportunity to file written responses to Sunrise's Motion by January 25, 1999, and  
16 that all the parties had an opportunity to file post-hearing briefs on all legal issues by January 29,  
17 1999. On January 25, 1999, Staff and Sorenson both filed Responses to Sunrise's Motion, and on  
18 January 29, 1999, both Sorenson and Sunrise filed their legal briefs. After the filings of January 29,  
19 1999, the matter was taken under advisement pending submission of a Recommended Opinion and  
20 Order to the Commission.

### 21 DISCUSSION

22 Sorenson currently provides wastewater utility service to approximately 340 customers in an  
23 area located near Bullhead City, Arizona. Sorenson's October 1, 1998 application ("Application")  
24 requests the addition of two separate parcels of land to its certificated territory.

25 The Application was filed, in part, as fulfillment of a condition imposed by Commission  
26 Decision No. 60833 (April 30, 1998) which deleted on an emergency basis, after notice and hearing  
27 the Mohave Valley Elementary School District No. 16 parcel ("School Parcel") from Sunris.  
28

1 CC&N. In that proceeding, Sunrise agreed to the deletion of that parcel from its CC&N territory in  
2 order to allow the School Parcel to receive wastewater service from Sorenson in accordance with an  
3 earlier agreement that Mohave Valley Elementary School District No. 16 had entered into with  
4 Sorenson. Decision No. 60833 required Sorenson to file by June 29, 1998 an application for an  
5 extension of its CC&N to include the School Parcel. In addition to the School Parcel, the current  
6 Application also includes a request that an additional parcel of land be added to Sorensen's CC&N  
7 pursuant to a request by M&L Properties. M&L Properties has requested that Sorenson provide  
8 wastewater utility service to a parcel of land referred to in the Application as Palm Estates II, Tract  
9 4104B ("Palm Estates II Parcel").

10 Sunrise has intervened in this proceeding to protest Sorenson's request to add the Palm  
11 Estates II Parcel to Sorenson's CC&N, on the grounds that the Palm Estates II Parcel is in Sunrise's  
12 currently certificated territory. In opposition to Sunrise's position, Sorenson and Staff have advanced  
13 the theory that the conditions upon which the Commission granted a CC&N extension to Sunrise in  
14 Decision No. 60416, (September 26, 1997), were never fulfilled and therefore the extension was  
15 never actually granted, leaving the Palm Estates II Parcel uncertificated. We disagree.

16 Recognizing that Sunrise's authorization to do business was revoked on February 10, 1993 for  
17 failure to file an annual report, Decision No. 60416 conditionally granted Sunrise's requested CC&N  
18 extension. Decision No. 60416 required Sunrise to file proof of being a corporation in good standing  
19 in the State of Arizona and in compliance with all applicable corporate filing requirements within  
20 sixty days of the date of that Decision. Sunrise's territorial extension approved in Decision No.  
21 60416 was also conditioned upon Sunrise's obtaining financing needed to fund the facilities to serve  
22 the extension area by September 25, 1998. The conditional CC&N extension included two parcels of  
23 land, one of which contained the Palm Estates II Parcel.

24 On November 4, 1997, Sunrise filed Articles of Incorporation with the Commission's  
25 Corporations Division. As Arizona law does not allow an administratively dissolved corporation to  
26 be reinstated after the end of the three year period following an administrative dissolution, A.R.S. §  
27 10-1422(A), Sunrise's reincorporation of November 4, 1997 was the only means by which Sunrise  
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1 could comply with Arizona corporate filing requirements. On November 18, 1997, a Commission  
 2 Procedural Order extended the time for filing the required Certificate of Good Standing to December  
 3 29, 1997. On December 2, 1997, Sunrise filed with the Commission a copy of the new corporation's  
 4 Certificate of Good Standing, thereby fulfilling one of the two conditions imposed by Decision No.  
 5 60416. Decision No. 60851, (April 30, 1998), authorized Sunrise to issue a promissory note in the  
 6 amount of \$162,500 to fund the facilities needed to serve the extension area. The Commission also  
 7 specifically found in Decision No. 60851 that although the old entity has dissolved and a new entity  
 8 has been formed, the new corporation is substantially the same as the old corporation. With the  
 9 issuance of Decision No. 60851, the CC&N extension granted to Sunrise in Decision No. 60416 was  
 10 no longer conditional.

11 According to Staff,<sup>2</sup> Sunrise did not meet the conditions set forth in Decision No. 60416  
 12 because the old corporation was not "reinstated." Sorenson also subscribes to this view.<sup>3</sup> However,  
 13 Decision No. 60416 did not require that the old corporation be reinstated, but that Sunrise file proof  
 14 of being a corporation in good standing in the State of Arizona and in compliance with all applica'  
 15 corporate filing requirements. As outlined above, Sunrise complied with the conditions of Decision  
 16 No. 60416, and the Palm Estates II Parcel is currently certificated to Sunrise.

17 At the hearing, the parties were informed that a ruling on Sunrise's Motion would be  
 18 forthcoming. However, our factual findings in this matter have rendered Sunrise's Motion moot,  
 19 obviating the need for a ruling.

20 \* \* \* \* \*

21 Having considered the entire record herein and being fully advised in the premises, the  
 22 Commission finds, concludes, and orders that:

### 23 FINDINGS OF FACT

24 1. Sorenson is an Arizona corporation engaged in the business of providing wastewater  
 25 utility service to the public in an area located near Bullhead City, Mohave County, Arizona, pursuant

26 \_\_\_\_\_  
 27 <sup>2</sup>Staff's position was stated in correspondence to Sunrise dated March 24, 1998, in its October 30, 1998 Staff Report on  
 the Application, in its December 14, 1998 Hearing Memorandum on the Application, and at the hearing.

28 <sup>3</sup> Sorenson filed its Joinder in Staff's Hearing Memorandum on January 13, 1999.

1 to authority granted by the Commission.

2       2. Sunrise is an Arizona corporation engaged in the business of providing water and  
3 wastewater utility service to the public in an area located near Bullhead City, Mohave County,  
4 Arizona, pursuant to authority granted by the Commission.

5       3. On April 30, 1998, in Decision No. 60833, upon emergency request by the Mohave  
6 Valley Elementary School District No. 16, and after notice and hearing, the School Parcel was  
7 deleted from Sunrise's CC&N territory, conditioned on Sorenson's filing by June 29, 1998, an  
8 application for an extension of its Certificate to provide wastewater service to the School Parcel.

9       4. On June 19, 1998, Sorenson requested that the June 29, 1998 filing date be extended  
10 by 90 days, and by Procedural Order of July 7, 1998, the filing date was extended to September 28,  
11 1998.

12       5. On October 1, 1998, Sorenson filed the Application for the extension of its existing  
13 CC&N to include the School Parcel and the Palm Estates II Parcel. The Palm Estates II Parcel  
14 adjoins the southern boundary of the School Parcel.

15       6. On October 29, 1998, the FMTUA filed an application requesting authority to  
16 intervene in this matter, and on October 30, 1998, Sunrise filed an application requesting authority to  
17 intervene in this matter.

18       7. On October 30, 1998, Staff filed its Staff Report which recommended approval of the  
19 Application following a hearing.

20       8. On November 4, 1998, the Commission issued a Procedural Order setting the hearing  
21 for December 16, 1998.

22       9. On November 12, 1998, Sorenson filed its Response to Intervention of FMTUA and  
23 its Opposition to Sunrise's Motion to Intervene.

24       10. On November 12, 1998, the Commission granted the intervention requests of FMTUA  
25 and Sunrise.

26       11. On November 16, 1998, Sunrise filed its Response to Sorenson's Opposition to  
27 Sunrise's Motion to Intervene.  
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1           12.    On December 14, 1998, Staff filed a Hearing Memorandum.

2           13.    On December 15, 1998, Sorenson, Sunrise, FMTUA and Staff stipulated to the  
3 continuation of the December 16, 1998 hearing due to the unavailability of a material witness for  
4 Staff.

5           14.    On December 15, 1998, the Commission issued a Procedural Order continuing the  
6 hearing to January 20, 1999.

7           15.    On January 13, 1998, Sorenson filed its Joinder in Staff's Hearing Memorandum.

8           16.    On January 15, 1999, Sunrise filed a Hearing Memorandum and its Motion for Partial  
9 Dismissal.

10          17.    A full public hearing was held as scheduled before a duly authorized Hearing Officer  
11 of the Commission at its offices in Phoenix, Arizona on January 20, 1999.

12          18.    At the hearing, three witnesses testified on behalf of Sorenson. Sorenson's witnesses  
13 included Mr. Sterling Varner, Sorenson's Vice-President and Operations Manager, Mr. James Robert  
14 Zaborsky, Chairman of the Mohave County Board of Supervisors and District Two Supervisor,  
15 Mr. Donald Ray Matuzak, one of the owners of M&L Properties, which has requested that Sorenson  
16 provide wastewater utility service to the Palm Estates II Parcel.

17          19.    Mr. Varner and Mr. Matuzak testified in support of the approval of Sorenson's  
18 Application in its entirety.

19          20.    Supervisor-Chairman Zaborsky testified that Mohave County has applied to become  
20 the regional planning authority for the region that includes the extension area requested by Sorenson,  
21 and that Mohave County's general policy is to promote the regionalization of wastewater service by  
22 coordinating the growth of wastewater service infrastructure in Mohave County.

23          21.    Mr. Rafe Cohen, Sunrise's President, testified at the hearing on behalf of Sunrise in  
24 opposition to the extension of Sorenson's CC&N to include the Palm Estates II Parcel.

25          22.    The FMTUA did not enter an appearance at the hearing.

26          23.    Mr. Patrick Williams, Consumer Services Supervisor of the Commission's Utilities  
27 Division, testified at the hearing on behalf of Staff, and recommended approval of Sorens  
28

1 Application in its entirety.

2 24. The territory within which the Palm Estates II and the School Parcels are located was  
3 conditionally granted to Sunrise in Decision No. 60416.

4 25. Decision No. 60833 deleted the School Parcel from Sunrise's CC&N territory.

5 26. With the issuance of Decision No. 60851 which authorized the financing required by  
6 Decision No. 60416, all the conditions of Decision No. 60416 were met. From that date, Sunrise's  
7 CC&N territory has unconditionally included the Palm Estates II Parcel.

8 27. Sorenson is currently providing wastewater utility service to the School Parcel, which  
9 is described in Exhibit A, attached hereto and incorporated herein by reference ("Exhibit A").  
10 Sorenson serves the School Parcel by means of a wastewater line running south from the school  
11 along Calle Del Media and ending at Aztec Road, near a wastewater collection line owned by the  
12 FMTUA. Where that wastewater line ends, Sorenson collects the wastewater and stores it in a  
13 holding tank, and then transports it by truck to Sorenson's wastewater treatment facility.

14 28. Sorenson has funded the construction of facilities to serve the School Parcel through a  
15 Sewer Facilities Extension Agreement.

16 29. M&L Properties, the owner of the Palm Estates II Parcel, has requested wastewater  
17 utility service from Sorenson.

18 30. Sorenson proposes to fund the construction of facilities to serve the Palm Estates II  
19 Parcel by means of a Sewer Facilities Extension Agreement.

20 31. Sorenson has obtained a Mohave County Franchise that allows it to construct its  
21 facilities within the public rights-of-way.

22 32. Sorenson is in compliance with ADEQ requirements.

23 33. Sorenson is current on its taxes.

24 **CONCLUSIONS OF LAW**

25 1. Sorenson is a public service corporation within the meaning of Article XV of the  
26 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

27 2. The Commission has jurisdiction over Sorenson and of the subject matter of the  
28

1 Application.

2 3. Notice of the hearing was given in accordance with the law.

3 4. Sorenson is a fit and proper entity to receive an amended Certificate which  
4 encompasses the extension area as described in Exhibit A.

5 5. The public convenience and necessity require the extension of Sorenson's Certificate  
6 to include the extension area as described in Exhibit A.

7 6. Sorenson cannot honor the request by M&L Properties to provide wastewater service  
8 to the Palm Estates II Parcel because the Palm Estates II Parcel lies within territory currently  
9 certificated to Sunrise.

10 7. The public convenience and necessity do not require the extension of Sorenson's  
11 Certificate to include the Palm Estates II Parcel.

12 **ORDER**

13 IT IS THEREFORE ORDERED that the application of Sorenson Utility Company, Inc. for an  
14 extension of its Certificate of Convenience and Necessity is hereby granted in part, to include o  
15 that area described in Exhibit A attached hereto and incorporated herein by reference.

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1 IT IS FURTHER ORDERED that Sorenson Utility Company, Inc. shall charge its existing  
2 rates and charges in the extension area.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7 COMMISSIONER-CHAIRMAN

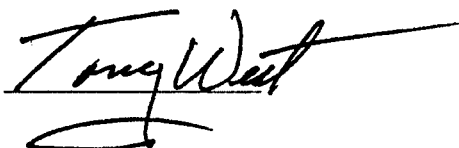
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12 IN WITNESS WHEREOF, I, STUART R. BRACKNEY,  
13 Acting Executive Secretary of the Arizona Corporation  
14 Commission, have hereunto set my hand and caused the official  
15 seal of the Commission to be affixed at the Capitol, in the City  
16 of Phoenix, this 1 day of April, 1999.

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18 STUART R. BRACKNEY  
19 ACTING EXECUTIVE SECRETARY

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SERVICE LIST FOR: SORENSON UTILITY COMPANY, INC.  
DOCKET NO. SW-02529A-98-0571  
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MOHAVE COUNTY BOARD OF SUPERVISORS  
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Director, Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

EXHIBIT A

**LEGAL DESCRIPTION  
OF MOHAVE VALLEY ELEMENTARY SCHOOL**

**LOTS 64 THRU 74 AND LOTS 79 THRU 84 OF RIO HACIENDA SUBDIVISION,  
TRACT 1224 BEING PART OF THE SOUTHEAST QUARTER OF SECTION 14  
TOWNSHIP 19 NORTH, RANGE 22 WEST, G.& S.R.M. MOHAVE COUNTY,  
ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 14,**

**THENCE NORTH 89 DEGREES 59 MINUTES 03 SECONDS EAST A DISTANCE OF 2646.75 FEET  
TO THE CENTER OF SAID SECTION 14 (FOUND HALF INCH IRON BAR);**

**THENCE SOUTH 00 DEGREES 05 MINUTES 30 SECONDS WEST ALONG THE NORTH-SOUTH  
MID SECTION LINE OF SAID SECTION 14 A DISTANCE OF 1327.00 FEET;**

**THENCE NORTH 89 DEGREES 59 MINUTES 09 SECONDS EAST A DISTANCE OF 80.06 FEET;**

**THENCE NORTH 00 DEGREES 00 MINUTES 51 SECONDS WEST A DISTANCE OF 30.00 FEET  
TO THE TRUE POINT OF BEGINNING;**

**THENCE NORTH 89 DEGREES 59 MINUTES 09 SECONDS EAST A DISTANCE OF 770.49 FEET;**

**THENCE NORTH 00 DEGREES 01 MINUTES 02 SECONDS WEST A DISTANCE OF 229.58;**

**THENCE NORTH 89 DEGREES 58 MINUTES 50 SECONDS EAST A DISTANCE OF 158.01 FEET;**

**THENCE NORTH 00 DEGREES 05 MINUTES 26 SECONDS EAST A DISTANCE 509.17 FEET;**

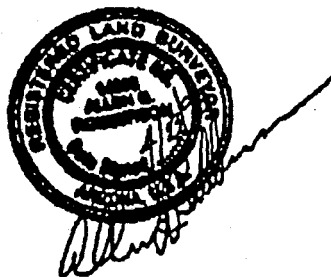
**THENCE SOUTH 89 DEGREES 57 MINUTES 54 SECONDS WEST A DISTANCE OF 948.06 FEET;**

**THENCE SOUTH 00 DEGREES 05 MINUTES 30 SECONDS WEST A DISTANCE OF 718.39 FEET  
TO A POINT, SAID POINT BEING ON THE ARC OF A CIRCLE FROM WHICH THE CENTER  
BEARS SOUTH 89 DEGREES 54 MINUTES 30 SECONDS EAST A DISTANCE OF 20.00 FEET;**

**THENCE SOUTHEASTERLY ALONG SAID ARC THROUGH A CENTRAL ANGLE OF  
90 DEGREES 06 MINUTES 21 SECONDS A DISTANCE OF 31.45 FEET TO THE TRUE POINT  
OF BEGINNING.**

**COMPRISING AN AREA OF 663927.79 SQUARE FEET BEING 15.24 ACRES.**

REVISED 4-23-98



DECISION NO. 66605